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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/699,615 | 10/31/2003 | Adrian James Corless | 45896.0025 | 9956 |
| 57600 | 7590 | 02/17/2006 | | |
| HOLLAND & HART LLP 60 E. SOUTH TEMPLE SUITE 2000 SALT LAKE CITY, UT 84111 | | | EXAMINER MAUST, TIMOTHY LEWIS | |
| | | | ART UNIT 3751 | PAPER NUMBER |

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/699,615 | Applicant(s) CORLESS ET AL. | |
| | Examiner Timothy L. Maust | Art Unit 3751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 25-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,9,10,12,13,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 3-6,8,11 and 14-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/24/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-24 in the reply filed on 12/22/05 is acknowledged.

Drawings

The drawings filed on 10/31/03 are informal, since the letters, numbers and lines are not uniform in nature throughout the Figures 2-5b.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 9, 10, 12, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartsell, Jr.

In regard to claims 1, 2 and 7, the Hartsell, Jr. reference discloses a "fuel dispenser" 110, a "fuel nozzle" 104, a "recipient" 200 having a "fuel receptacle" 204; wherein an "electrical bond" is established via interrogator 125 and communications electronics 206. Immobilization of vehicle 200 takes place by the user placing the

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vehicle in park and turning it off. Fuel is dispensed at step 435 in Figure 6A until a shut-off conditions arises in the steps of Figure 6C, as claimed.

In regard to claim 9, the amount of fuel is monitored at step 440 Figure 6B.

In regard to claim 10, the dispenser has a vapor recovery system 114 (Figure 1) that shuts off the fuel delivery when the fuel reaches a certain level.

In regard to claim 12, the vehicle 200 has electrical parts and a motor.

In regard to claims 23 and 24, the structure defined in the claims is inherent to the system.

Allowable Subject Matter

Claims 3-6, 8, 11 and 14-22 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartsell, Jr in view of Foster, Jr.

The Hartsell, Jr. reference discloses the invention substantially as claimed (discussed supra), but does not disclose a shut off condition arising when the nozzle is decoupled from the receptacle or immobilizing comprising disabling power to said motor. However, the Foster, Jr. reference discloses another fuel dispensing apparatus that immobilizes the vehicle by actuating proximity switch 20 to deactivate ignition switch 22 to ensure the vehicle cannot be moved while refueling. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Hartsell, Jr. device to have a proximity switch in view of the teachings of the Foster, Jr. reference in order to provide a safety device that inhibits the use of vehicle while being refueled.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Oberrecht et al. and Kawazu et al. pertain to various fuel delivery apparatuses having similar structure to that of the Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Tue. - Thur. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
2/14/06